STR 116/06

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. SALES TAX REVISION PETITION NO.116/2006

ACTO

Versus

M/s. D.S.R. Steels Pvt. Ltd.

DATE OF ORDER :: 12/12/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. R.B. Mathur, for petitioner

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Instant revision petition has been filed by the Revenue against the order of the Tax Board dated 8th January, 2004 whereby while upholding the order of the Deputy Commissioner [Appeals] by which penalty imposed upon the assessee by the Assessing Authority in exercise of power u/s.77(8) of Rajasthan Sales Tax Act, 1994 was set aside, the appeal of the Revenue has been dismissed.

Counsel for petitioner submits that on the date when survey was made, the Accountant of the assessee was present and he too came forward with the request to make assessment and if any, penalty is to be levied, the same may be processed further since goods have to be delivered to the party. As such the Assessing Authority has proceeded after taking note of excess unaccounted stock and imposed penalty u/s.77(8) of the Act. Being aggrieved by the said order of the Assessing Authority, the assessee preferred appeal before the Deputy Commissioner [Appeals] and raised objections that they were not

bound by the statement made by the Accountant who was not their authorized person and apart from the same, it was brought on record that since their furnace was shut down, as such approximately 93.400 metric tonnes of ingots remain in process. As such the accounts maintained by the assessee tally with the stock available at site. The Deputy Commissioner [Appeals] taking note of the factual matrix which has come on record, recorded a finding that imposition of penalty u/s.77(8) of the Act in the instant case in no manner can be said to be justified, consequently, set aside the order of the Assessing Authority. Against which, the Revenue further preferred appeal before the Tax Board, but that too met with the same fate and while upholding the order of the Deputy Commissioner [Appeals], the appeal preferred by the Revenue was rejected vide order impugned dated 8th January, 2004.

I have gone through the order of the Dy. Commissioner [Appeals] and so also Tax Board which are based on appreciation of facts and there is concurrent finding of fact which has been recorded by both the authorities. I do not find any legal question which requires consideration in the present revision petition.

Consequently, the revision petition fails and is hereby dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.